

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

<i>In Re:</i>	Bloomfield Baptist Church)	
	Ward 35, Block 67, Parcel 2)	
	Ward 35, Block 68, Parcels 1 and 2)	
	Ward 35, Block 75, Parcel 39)	Shelby County
	<i>Claims of Exemption</i>)	

INITIAL DECISION AND ORDER

Statement of the Case

These are appeals pursuant to Tenn. Code Ann. section 67-5-212(b)(2) from a denial of applications for exemption of the subject parcels from ad valorem taxation. The applications were received by the State Board of Equalization ("State Board") on April 5, 2004. By letter dated August 7, 2007, State Board staff attorney Sabrina Williams notified the applicant of the denial on the ground of failure to respond to requests for additional information.¹ Bloomfield Baptist Church ("BBC"), the applicant and owner of the properties in question, filed appeals with the State Board on October 30, 2007. The undersigned administrative judge conducted a hearing of this matter on January 31, 2008 in Memphis. BBC was represented at the hearing by its Secretary/Clerk, Kay Murrell. Staff appraiser Tom Richie appeared on behalf of the Shelby County Assessor of Property ("Assessor").

Findings of Fact and Conclusions of Law

Background. BBC is a nonprofit religious institution whose house of worship is located at 123 South Parkway West in Memphis. The applications under scrutiny are four of nine that Ms. Murrell filed on the Church's behalf in April, 2004. Initially, the other five applications were also denied by the State Board designee because of BBC's failure to furnish certain additional information within the allotted time. However, upon reconsideration, Ms. Williams approved or partially approved all but one of those five applications; and BBC did not take exception to those determinations. The properties in question here are as follows:

<u>Parcel ID</u>	<u>Address</u>	<u>Date of Acquisition</u>	<u>Purchase Price</u>
35-67-2	165 South Parkway West	June 22, 2001	\$250,000
35-68-1	143 South Parkway West	October 17, 2003 (w/ Parcel No. 35-68-2)	\$ 50,000
35-68-2	0 Pennsylvania	October 17, 2003 (w/ Parcel No. 35-68-1)	\$ 50,000
35-75-39	1510 Monsarrat	July 10, 2000	\$ 6,500

¹Ms. Williams reaffirmed this initial determination in a follow-up letter on August 23, 2007.

BBC's applications for exemption of the above properties were first reviewed by State Board staff attorney Emily Bennett. On January 20, 2005, Ms. Murrell submitted handwritten responses (with photographs) to a series of questions that Ms. Bennett had posed in a letter ten days earlier. The applications were subsequently transferred to Ms. Williams, who, on March 30, 2006, sent a request for "written responses" to more inquiries. Although Ms. Murrell was identified on each of the applications as BBC's contact person, Ms. Williams addressed that request to Kenneth A. Lee.² For whatever reason, Mr. Lee neither responded to Ms. Williams' request nor forwarded it to Ms. Murrell. As a result, all four applications were denied. Ms. Williams declined to reconsider this ruling, suggesting in a letter of August 23, 2007 that BBC "go forward with the appeal process" and "present any documentation at the appeal that would support your contention that the subject properties should be granted exemption."

The Subject Properties. Situated on the five-acre Parcel No. 35-67-2 is a two-story, approximately 10,000-square-foot building that was formerly occupied by a trucking company. In the summer of 2006, BBC partially renovated this structure by installing new carpet and removing some interior walls.

The deteriorating building on 3.3-acre Parcel No. 35-68-1, next door to BBC's sanctuary, is slated for demolition when sufficient funds become available. Like the office building/terminal at 165 South Parkway West, this facility previously housed a truck line. There is a paved parking area in front of the old terminal and a row of open bays in back of it.

BBC hopes to sell the smaller vacant lots at 0 Pennsylvania (behind Parcel No. 35-68-1) and 1510 Monsarrat (in the immediate vicinity) as soon as possible.

In his routine field review of the subject properties, the Assessor's representative found no indication that any of them were in use.³ Mr. Richie observed an overgrowth of weeds and brush on the vacant lots.

But according to Ms. Murrell's testimony, BBC has used the enclosed portion of the building on Parcel No. 35-68-1 for the storage of furniture and other items donated to the Church. Further, having outgrown the main church parking lot at 123 South Parkway West, BBC has used the paved part of this property for additional parking.

BBC has dedicated the redesigned building on Parcel No. 35-67-2 as an "Education and Recreation Center" for youth in the community. (This does not, of course, extend to the rear wing of unenclosed bays.) The main thrust of this outreach was to transform the enlarged rooms into computer repair training laboratories. Unfortunately, chronic theft has forced BBC at least temporarily to move some of the equipment in the facility elsewhere. But even before the

²It was Mr. Lee who actually signed the written responses to the questions that Ms. Williams had directed to Ms. Murrell in connection with the aforementioned reconsideration of BBC's other five applications. Mr. Lee's last day of employment with the Church was January 31, 2008 – the day after the hearing of these appeals.

³Mr. Richie's latest visit to the site occurred in mid-2007.

2006 renovation project, Ms. Murrell declared, the Church was regularly using the front of this building for similar instruction as well as "dance ministries," "baton twirling classes," and other regularly scheduled youth activities.

As for the vacant lots BBC is attempting to sell, Ms. Murrell testified that the minuscule Parcel No. 35-75-39 has been used "sparingly" by pre-school through teenage children for picnics and other outdoor events under adult supervision.

Applicable Law. Article II, section 28 of the Tennessee Constitution permits the state legislature to exempt from taxation property which is "held and used for purposes purely religious, charitable, scientific, literary, or educational." Under this authority, the General Assembly has enacted a law stating that:

There shall be exempt from property taxation the real and personal property, or any part thereof, owned by any religious, charitable, scientific or nonprofit educational institution which is occupied and used by such institution or its officers purely and exclusively for carrying out thereupon one (1) or more of the purposes for which the institution was created or exists....

Tenn. Code Ann. section 67-5-212(a)(1)(A).

The phrase *purely and exclusively* in the above statute has been construed to mean that the property in question must be put to a use which is "directly incidental to or an integral part of" an exempt purpose of the institution. Methodist Hospitals of Memphis v. Assessment Appeals Commission, 669 S.W.2d 305 at 307 (Tenn. 1984).

In this state, contrary to most other jurisdictions, property tax exemptions are liberally construed in favor of qualifying institutions such as BBC. See, e.g., George Peabody College for Teachers v. State Board of Equalization, 407 S.W.2d 443 (Tenn. 1966). Nevertheless, as the party seeking to change the initial determination on its applications for exemption, BBC has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(2).

Analysis.

Parcel 35-67-2. The computer repair classes and other youth activities conducted in the Education and Recreation Center are reasonably related to the accomplishment of BBC's mission. Ms. Murrell had stated on the application for exemption of this property that it was used for such activities "3 times per week." However, the record leaves considerable doubt as to whether the *entire* building (apart from the bay wing) has been continuously used for religious purposes since 2004.⁴ BBC's recent relocation of equipment to another address heightens the level of uncertainty on this point. Accordingly, the administrative

⁴In her handwritten reply to Ms. Bennett on January 20, 2005, Ms. Murrell indicated that computer repair classes were held in the "front" of the building. Among the follow-up questions regarding Parcel No. 35-67-2 that Ms. Williams raised in her March 30, 2006 letter to Mr. Lee was "how much of the building is being used?"

judge concludes that exemption of Parcel No. 35-67-2 should be limited to 50% of the total value of the improvements and the site.

Parcel 35-68-1. Prior to the hearing at which Ms. Murrell was BBC's only witness, there was no mention – either on the original application for exemption or her ensuing correspondence with the State Board – of the supposed use of the dilapidated structure on this parcel for storage.⁵ Particularly in the absence of any corroborating testimony and/or documentary evidence that would tend to substantiate this belated claim, the administrative judge is not inclined to recommend exemption of any part of such property except the paved parking area and the underlying land.

Parcel Nos. 35-68-2 and 35-75-39. The proof does not establish any church-related usage of 0 Pennsylvania, which apparently was excess land associated with the old trucking terminal on the adjoining Parcel No. 35-68-1 that is destined for destruction. Nor, by Ms. Murrell's own admission, has BBC regularly used Parcel No. 35-75-39 for the "outreach ministries" referred to on the application.⁶ Consequently, the appellant is not entitled to exemption of either of these vacant lots.

The partial exemption of Parcel Nos. 35-67-2 and 35-68-1 will be effective as of January 1, 2004. See Tenn. Code Ann. section 67-5-212(b)(3)(A). BBC may reapply for exemption of part or all of the unapproved land and improvements, subject to payment of any processing fees imposed by the State Board pursuant to Tenn. Code Ann. section 67-5-212(b)(2).

Order

It is, therefore, ORDERED that Parcel No. 35-67-2 (as improved) shall be exempt from property taxation to the extent of fifty percent (50%) of its total value, effective January 1, 2004; that only the paved parking area and underlying land on Parcel No. 35-68-1 shall be exempt from property taxation, effective January 1, 2004; and that Parcel Nos. 35-68-2 and 35-75-39 shall not be exempt from property taxation.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of

⁵Ms. Murrell did state on the application that this property was "used as parking at this time."

⁶At the time of the application, the appraised value of this lot was a mere \$2,100.

the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 5th day of March, 2008.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Kay Murrell, Secretary/Clerk, Bloomfield Baptist Church
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office

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